

Notice of Allowability

Application No.

10/009,980

Examiner

Teresa E. Strzelecka

Applicant(s)

BENEDI BENITO ET AL.

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed June 30, 2005.
2. ☒ The allowed claim(s) is/are 18-24.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 8/30/05; 9/12/05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JEFFREY FREDMAN
PRIMARY EXAMINER

9/15/05

EXAMINER'S AMENDMENT

1. This office action is in response to an amendment filed June 30, 2005. Claims 8-26 were previously pending, with claims 8-17 withdrawn from consideration. Applicants cancelled claims 8-17, 25 and 26, and amended claim 18. Claims 18-24 are pending and will be examined.
2. Applicants' amendments overcame the following rejections: rejection of claims 18, 19, 21-23 and 25 under 35 U.S.C. 102(b) as anticipated by Meyer et al.; rejection of claims 18-23 and 25 under 35 U.S.C. 102(b) as anticipated by Drake et al.; rejection of claim 24 under 35 U.S.C. 103(a) over Meyer et al.; rejection of claim 24 under 35 U.S.C. 103(a) over Drake et al.
3. Applicants' submission of the certified copy of the Spanish priority application P200000560, with a filing date of March 8, 2000, obviated the rejection of claims 18, 19, 21-23 and 25 under 35 U.S.C. 102(a) as anticipated by Meyer et al.
4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Edward Gamson on September 12, 2005.

The application has been amended as follows:

- in claim 18, line 1, insert ---and amplifying---after "obtaining",
- in claim 18, line 23, delete ---4--- after "NO:" and substitute ---5--- therefor,
- in claim 18, line 24 and 25, delete ---, a portion of SEQ ID NO: 7 or a portion of SEQ ID NO: 9---

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance: Applicants' invention is a method of extracting and amplifying DNA from guar or locust bean gum samples by extracting the guar DNA in an aqueous solution and amplifying the DNA using primers of SEQ ID NO: 5 or 6, specific for the gum ITS2 ribosomal DNA. No references were found teaching or suggesting this method. The closest prior art references, Meyer et al. and Drake et al., teach extraction of DNA from samples containing guar gum, but do not teach amplification of the DNA with primers of SEQ ID NO: 5, SEQ ID NO: 6 or both.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa E. Strzelecka whose telephone number is (571) 272-0789. The examiner can normally be reached on M-F (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TS
September 13, 2005


JEFFREY FREDMAN
PRIMARY EXAMINER

9/15/05